

Example of Documenting your exemption from ACOE Jurisdiction

INTER-DEPARTMENTAL COMMUNICATION

January 20, 20X5

TO: Clem Kiddidlehopper

FROM: Shelley Reubenowitz

SUBJECT: ACOE regulations in *404 only* waters

The project involves excavation in 404 only waters near bridge and box culvert at the intersection of Long Road with Wide Road, Tax Parcel No. 6XXXX 33 00010, SW ¼ of the SW ¼ of Section 2X, Township 19N, Range 6 WWM. The accumulations of the bed load within the two creeks threaten the integrity of the existing bridge and box culvert. Failure to initiate channel clearance may result in the loss of the bridge and culvert, hinder public access and risk public safety. Furthermore, no action may result in the alteration of stream flow, possible flooding and bank erosion causing adverse effects to riparian habitat and downstream fisheries.

The Army Corps of Engineers has no authority under the Clean Water Act to regulate excavation in 404 only waters. We recognize that we cannot have any more than incidental fallback. No Corps permit is needed according to the regulations [33 CFR 323.2(d)(2)(ii)].

We will be using a front-end loader to excavate gravel and will not incur any more than incidental fallback. The proposed excavation will lower the stream channel uniformly across its width and allow more clearance for water to pass.

I suggest that photo records of the construction activity be added to this documentation to secure the concept of no more than incidental fallback occurring during this maintenance activity.

Cc: Chuck Cheese, Maintenance Engineering Manager